

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK
ROCHESTER DIVISION**

GREG KUEBEL, on Behalf of Himself and All Others Similarly Situated,)	
)	
)	
)	
Plaintiff,)	Case No. 08-CV-6020T
)	
)	
vs.)	
)	
)	
BLACK & DECKER (U.S.), INC.,)	
)	
)	
Defendant.)	
)	

**PROPOSED ORDER ON
MOTION FOR CERTIFICATION OF NEW YORK LABOR LAW
CLASS ACTION, CONDITIONAL CERTIFICATION OF FLSA CLASS, AND
PRELIMINARY APPROVAL OF SETTLEMENT AND PROPOSED NOTICE**

On October 19, 2012, Plaintiff Greg Kuebel filed a Motion for an Order to:

1. Certify for settlement purposes only a New York Labor Law class action;
2. Grant preliminary certification for settlement purposes only of an FLSA collective action;
3. Grant preliminary approval of the Joint Stipulation of Settlement and Release (“Settlement”) (Doc. No. 180);
4. Approve the following (collectively, the “Notice Materials”): (a) Claim Form (Non-NY/Previously Filed Consent to Join) (“Exhibit A” to Settlement) (Doc. No. 180-1); (b) Claim Form (NY-Previously Filed Consent to Join) (“Exhibit B” to Settlement) (Doc. No. 180-2); (c) Consent to Join/Claim Form (New/Non-NY/Full-Time) (“Exhibit C” to Settlement) (Doc. No. 180-3); (d) Consent to Join/Claim Form (New/NY/Full-Time) (“Exhibit D” to Settlement) (Doc. No. 180-4); and (e) Notice of Collective Class Action Settlement (“Exhibit E” to Settlement) (Doc. No. 180-5); and
5. Establish a date for a Fairness Hearing.

The Court has reviewed the documents submitted with respect to the Motion and is prepared to rule on the requests made in that Motion. The Court, having read and considered the papers on the motion and the law, and good cause appearing therefore,

IT IS HEREBY ORDERED:

1. The Court, finding that the requirements of Fed R. Civ. P. 23(a) and 23(b) are satisfied, certifies for settlement purposes only a New York Labor Law class action.
2. The Court, finding that the Representative Plaintiff and all opt-in plaintiffs and putative plaintiffs are similarly situated, grants preliminary certification for settlement purposes only of an FLSA class.
3. The Court preliminarily approves the proposed settlement. The settlement falls within the range of possible approval as fair, adequate, and reasonable, and it is the product of arm's-length and informed negotiations.
4. The parties' proposed notice plan is constitutionally sound because individual notices will be mailed to all Class Members, and such notice is the best notice practicable. The parties' proposed Notice of Collective Action Settlement Form, as well as the various proposed claim forms, is sufficient to inform Class Members of the terms of the Settlement, their rights under the Settlement, their rights to object to the Settlement, their right to receive a settlement payment, the process for exercising their rights, and the date and location of the final Approval Hearing. Therefore, the Court approves the Notice Materials agreed upon by the parties.
5. The Court will hold a final Approval Hearing on February 15, 2013 at 10:00 a.m. to determine whether the Court should grant final approval of the Settlement as fair, adequate, and reasonable. The Court will hear all evidence and argument necessary to evaluate the settlement. All Objections to final approval shall be filed thirty (30) calendar days after the Claims

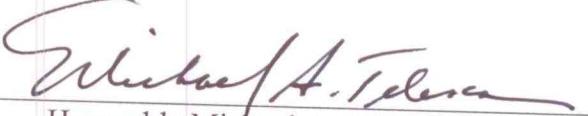
Administrator mails the Notice of Settlement and no later than sixty (60) days from this Order. All responses to Objections shall be received by the Court at least fifteen (15) days prior to the date of the Approval Hearing.

6. Any Class Member other than the Representative Plaintiff may appear at the Approval Hearing in person or by his or her own attorney and show cause why the Court should not approve the Settlement, provided they have timely filed a written objection in accordance with the Notice of Collective Action Settlement. Class Counsel and Defendant's Counsel shall file responses to any Class Member's written objections at least fifteen (15) days before the Approval Hearing.

7. The Court reserves the right to continue the date of the Approval Hearing without further notice to Class Members.

ALL OF THE ABOVE IS SO ORDERED.

Dated: November 2, 2012
Rochester, New York


Honorable Michael A. Telesca